

CHAPTER 322

RETIREMENT OF JUDGES

S. F. 114

AN ACT relating to voluntary retirement of judges and retirement for cause.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Chapter six hundred five A (605A), Code 1962, is
2 amended by adding the following new section:

3 "Voluntary retirement for disability. Any judge of the supreme or
4 district court who shall have served as a judge of one or both of such
5 courts for a period of six years in the aggregate and who believes he
6 has become permanently incapacitated, physically or mentally, to per-
7 form the duties of his office may personally or by his next friend or
8 guardian file with the state comptroller a written application for re-
9 tirement. The application shall be filed in duplicate and accompanied
10 by an affidavit as to the duration and particulars of his service and the
11 nature of his incapacity. The state comptroller shall forthwith trans-
12 mit one copy of the application and affidavit to the chief justice who
13 shall request the attorney general in writing to cause an investigation
14 to be made relative to the claimed incapacity and report back the re-
15 sults thereof in writing. If the chief justice finds from the report of
16 the attorney general that the applicant is permanently incapacitated,
17 physically or mentally, to perform the duties of his office he shall by
18 his endorsement thereon declare the applicant retired, and the office
19 vacant, and shall file the report in the office of the state comptroller,
20 and a copy in the office of the secretary of state. From the date of
21 such filing the applicant shall be deemed retired from his office and
22 entitled to the benefits of this chapter to the same extent as if he had
23 retired under the provisions of section six hundred five A point six
24 (605A.6) of the Code."

1 SEC. 2. Chapter six hundred five (605), Code 1962, is amended by
2 adding the following new sections:

3 A. Retirement for cause: A judge of the supreme court or district
4 court may be retired from office for any of the following reasons:

5 1. Permanent physical or mental disability rendering him incapable
6 of properly performing his duties, or

7 2. When he ceases to have the qualifications required for the office
8 of judge.

9 B. "Petition. A petition for the removal of a judge of the supreme
10 or district court may be filed in the office of the clerk of the supreme
11 court by the chief justice, the attorney general, or twenty-five mem-
12 bers of the bar of the state or district."

13 C. "Special court. Upon the filing of such petition, the chief justice
14 shall appoint an associate justice of the supreme court and two judges
15 of the district court as a special court to hear the matter. Such court
16 shall fix the time and place of hearing and prescribe notice thereof to
17 be served on the subject judge and on the attorney general who shall
18 prosecute such action."

19 D. "Attendance of witnesses and appointment of physicians. The
20 special court shall have power to compel the attendance of witnesses

21 and the giving of testimony, may require a physical or mental exami-
 22 nation of the judge under investigation, and may appoint one or more
 23 physicians to make such examination."

24 E. "Conducting hearing. The supreme court may provide rules for
 25 such hearing. Ample opportunity shall be afforded the judge under
 26 investigation to subpoena witnesses, present evidence and be heard in
 27 person and by counsel."

28 F. "Order and appeal. If upon hearing the special court finds that
 29 grounds for removal have been established it shall order such judge
 30 removed from office and declare the office vacant. Appeal may be taken
 31 to the supreme court under the rules applicable to civil cases but no
 32 justice who served on the special court shall participate in determina-
 33 tion of the appeal. An appeal shall stay operation of an order of re-
 34 moval. Copies of an order of removal which has become final in the
 35 special court or on appeal shall be filed in the offices of the state comp-
 36 troller and secretary of state."

37 G. "Substitute for chief justice. When the removal or voluntary
 38 retirement of the chief justice is involved in any proceeding all duties
 39 imposed upon him by this Act shall be performed by the justice of the
 40 supreme court, other than the chief justice, who is senior in length of
 41 service; if two or more of the justices of such court are of equal length
 42 of service, the eldest of them shall perform such duties."

1 SEC. 3. Chapter six hundred five A (605A), Code 1962, is amended
 2 by adding the following new sections:

3 A. "Retirement benefits for disability. An adjudication as to per-
 4 manent physical or mental disability under the provisions of chapter
 5 six hundred five (605) of the Code, as amended by this Act, shall en-
 6 title the judge to the same retirement benefits as provided for volun-
 7 tary retirement for such cause."

8 B. "Forfeiture of benefits—refund. In the event a judge of the
 9 supreme or district court is removed for cause other than permanent
 10 disability he shall forfeit the right to any retirement benefits under
 11 the system but the total amount of his contribution to the fund shall
 12 be returned to him or his legal representative."

13 C. Section six hundred five A point seven (605A.7), Code 1962, be
 14 amended by striking all of line four (4) and insert in lieu thereof:
 15 "basic salary for his last three (3) years as a judge of one (1) or more
 16 of the".

1 SEC. 4. Severability clause. If any provision of this Act or the
 2 application thereof to any person or circumstances is held invalid, the
 3 invalidity shall not affect other provisions or applications of the Act
 4 which can be given effect without the invalid provision or application,
 5 and to this end the provisions of this Act are severable.

6 "This Act, being deemed of immediate importance, shall be in full
 7 force and effect from and after its passage and publication in The
 8 Tipton Conservative, a newspaper published at Tipton, Iowa, and in
 9 The Parkersburg Eclipse, a newspaper published at Parkersburg,
 10 Iowa."

Approved March 13, 1963.

I hereby certify that the foregoing Act, Senate File 114, was published in *The Tipton Conservative*, Tipton, Iowa, March 21, 1963, and in *The Parkersburg Eclipse*, Parkersburg, Iowa, March 20, 1963.

MELVIN D. SYNHORST, *Secretary of State*.

CHAPTER 323

GRAND JURY

H. F. 362

AN ACT relating to the grand jury.

Be It Enacted by the General Assembly of the State of Iowa:

- 1 SECTION 1. Section six hundred nine point twenty-seven (609.27),
- 2 Code 1962, is hereby amended by striking all of such section after the
- 3 word "township." in line seven (7) and inserting in lieu thereof the
- 4 following:
- 5 "In townships containing more than sixty thousand (60,000) popu-
- 6 lation, two (2) grand jurors may be drawn from said township."

Approved April 23, 1963.

CHAPTER 324

ACTIONS AGAINST HIGHWAY COMMISSION

S. F. 148

AN ACT to waive immunity of the state of Iowa from any action at law or in equity brought to enforce, or to determine a controversy rising out of any contract in which the Iowa state highway commission is a party and to prescribe the venue, the manner of service of notice thereof and the time limitation for instituting action.

Be It Enacted by the General Assembly of the State of Iowa:

- 1 SECTION 1. The state of Iowa hereby waives immunity from suit
- 2 and consents to the jurisdiction of any court in which an action is
- 3 brought against the Iowa state highway commission respecting any
- 4 claim, right, or controversy arising out of the work performed, or by
- 5 virtue of the provisions of any construction contract entered into by
- 6 the Iowa state highway commission. Such action shall be heard and
- 7 determined pursuant to rules otherwise applicable to civil actions
- 8 brought in the particular court having jurisdiction of the suit and the
- 9 parties to the suit shall have the right of appeal from any judgment,
- 10 decree, or decision of the trial court to the appropriate appellate court
- 11 under applicable rules of appeal.

- 1 SEC. 2. Any such action shall name the Iowa state highway com-
- 2 mission as defendant and the venue for trial shall be in the county, or
- 3 in the federal court district, where all or part of the construction work
- 4 was performed.